



# STATE OF INDIANA

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Ms. Diana L. Cleland

Via electronic mail: [Diana.Cleland@hamiltoncounty.in.gov](mailto:Diana.Cleland@hamiltoncounty.in.gov)

*Re: Informal Inquiry 11-INF-08; Electronic delivery of tax statements and storage of electronic email addresses*

Dear Ms. Cleland:

This is in response to your informal inquiry regarding whether or not taxpayers' email addresses must be disclosed if they are obtained by Hamilton County (the "County") as a result of the County making tax statements available via email rather than traditional U.S. Mail. Pursuant to Ind. Code § 5-14-4-10(5), I issue the following opinion in response to your inquiry. My opinion is based on applicable provisions of the Indiana Public Access Records Act ("APRA"), I.C. § 5-14-3-1 *et seq.*

Generally, email addresses are not exempt from the APRA's general rule that all records maintained by a public agency are open for inspection and copying. *See* I.C. § 5-14-3-3. That said, the APRA specifies that "a public agency is not required to create or provide copies of lists of names and addresses (including electronic mail account addresses) unless the public agency is required to publish such lists and disseminate them to the public under a statute." I.C. § 5-14-3-3(f). "However, if a public agency has created a list of names and addresses (excluding electronic mail account addresses) it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law." *Id.*

In reviewing this language from section 3 of the APRA, it appears that the General Assembly intended to permit public agencies to refuse to provide copies of lists of names and addresses under most circumstances. I base this conclusion on the fact that the provision permits public agencies to decline to release "copies of lists of names and addresses (*including* electronic mail account addresses)," but requires public agencies to permit inspection of lists of names and addresses *other than* email addresses in the next sentence. *Id.* Consequently, it is my opinion that the County may refuse to release a list of names and electronic email addresses if a requester seeks access to such a list under the APRA.

That said, it is unclear whether or not an individual email address would be protected from disclosure if it appears in an otherwise-disclosable public record. Because

the APRA does not generally exempt emails from disclosure, I do not know of a legal basis for public agencies to redact email addresses from non-confidential records. Thus, I would recommend that if the County stores taxpayers' email addresses, it should do so in list form *only* so that access to the list can be denied under Ind. Code § 5-14-3-3(f).

I also note that I cannot guarantee, through this opinion, that such email addresses could be held as confidential under all circumstances. This opinion is based upon my own interpretation of the APRA, which is non-binding if this issue were to be litigated at some point in the future. Courts could reach different conclusions based on a different interpretation of subsection 3(f), and of course the General Assembly could always modify the law in such a way as to require the release of lists of email addresses. That said, it is my opinion that, at this time, a public agency would not violate the APRA by denying a request for access to a list of names and electronic email addresses under Ind. Code § 5-14-3-3(f).

If I can be of additional assistance, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack  
Public Access Counselor